

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

IN THE MATTER OF:

Inspection of workplace  
located at and near

Case No. 19-sw-00013-LMC

1084 Rose Hill Road  
Billings, Missouri 65610

under the control or custody of

AMBASSADOR PIPE AND SUPPLY, INC.

**APPLICATION FOR ADMINISTRATIVE SEARCH WARRANT UNDER  
THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

TO THE HONORABLE UNITED STATES MAGISTRATE JUDGE:

Karena Lorek, Area Director and a duly authorized compliance officer of the Kansas City Area Office, Occupational Safety and Health Administration, United States Department of Labor, hereby applies for an administrative search warrant, pursuant to section 8(a) of the Occupational Safety and Health Act of 1970, 29 U.S.C.A. §§ 651-678, 657(a) (West 2012), hereinafter referred to as the Act, for the inspection, investigation and search of the workplace located at 1084 Rose Hill Road, Billings, Missouri 65610, and described as the workplace where Ambassador Pipe and Supply, Inc. is believed to be engaged in the distribution of pipe, tubing, fittings, and valves as well as welding, cutting, threading and shipment services.

1. This workplace is the place of occupation of employees who are employed by Ambassador Pipe and Supply, Inc.
2. The authority for issuance of the administrative search warrant is section 8(a) of the Act, 29 U.S.C.A. § 657(a), and *Marshall v. Barlow's, Inc.*, 436 U.S. 307, 98 S.Ct. 1816 (1978).
3. The warrant sought hereby is based on a signed formal complaint from three

employees made to the Kansas City Area Office of the Occupational Safety and Health Administration that said complainants believe safety and/or health hazards exist at the aforescribed workplace. The complaint identifies an establishment or an alleged hazard covered by a local or national emphasis program. Inspection under these circumstances is authorized by OSHA CPL 02-00-160, Field Operations Manual (FOM), (hereinafter CPL 02-00-160) at Chapter 9, paragraph I.A.1.a, at p. 9-1, attached hereto as Exhibit A and incorporated herein.

4. The complaint was initially received via telephone from an employee on December 10, 2018. A signed written complaint from three employees was received at the Area Office on December 17, 2018. The complaint was reduced to writing on the OSHA Form Notice of Alleged Safety or Health Hazards. Redacted copies of the complaint, which was typed from the handwritten submission, and the OSHA Form, which protect the identification of the complainants, are attached hereto as Exhibit B, and incorporated herein.

5. Applicant Karena Lorek, Area Director for the Kansas City OSHA Area Office, states that she has evaluated the conditions alleged in the complaint, Exhibit B as referenced in paragraphs 3 and 4 above, and that on the basis of this evaluation has determined that there are reasonable grounds to believe that employees are exposed to the following hazardous conditions and potential violations of section 5(a)(2) of the Act, 29 U.S.C.A. § 657(a)(2) and standards promulgated pursuant thereto:

Complaint Item	Location	Hazardous Condition	Applicable Standard
1	Shop	Employees are exposed to fire, explosion, and respiratory hazards from exposed wires by the breaker box within 4.5 feet of acetylene, argon/CO <sub>2</sub> and propane bottles, which could explode on contact or with electrical arcs.	29 CFR 1910.303(d)

2	Shop	Employees are exposed to fire and explosion hazards due to not having a locked cage to contain the flammable/combustible gas cylinder bottles; bottles are secured only with a hook and small chain.	29 CFR 1910.101(b)
3a	Facility-Wide	Employees are exposed to struck-by and roll over hazards resulting from inadequate training for operators of forklifts and skid steer loaders.	29 CFR 1910.178(l)(1)
3b	Facility-Wide	Employees are exposed to hazards related to their work, because of a lack of safety training.	Section 5(a)(1)
4a	Facility-Wide	Employees are exposed to chemical hazards as a result of not having Safety Data Sheets explaining chemicals used in the facility.	29 CFR 1910.1200(e)(1)
4b	Facility-Wide	Employees are exposed to chemical hazards as a result of improper storage of chemicals.	29 CFR 1910.1200(e)(1)
5	Shop	Employees are exposed to chemical and respiratory hazards due to no ventilation of fumes from welding, plasma cutting, and grinding on galvanized steel.	29 CFR 1910.252(c)(1), 1910.1000(a) & 1910.134(a)(1) and (2)
6	Shop	Employees are exposed to chemical and respiratory hazards because there is no designated paint booth: employees paint in the shop.	29 CFR 1000(a)(1) & (2) and 1910.134(a)(1) and (2)
7	Facility-Wide	Employees are exposed to struck-by and rollover hazards because material and personnel handling motorized equipment is unsafe and not properly maintained. The steering wheel on the big forklift pulls out, has leaky hydraulic hoses, and the brakes do not work well. The skid steer loader has leaking hydraulic fluid lines and hoses.	29 CFR 1910.178(p)(1)
8	Shop	Employees are exposed to unsafe working conditions in that there is no climate control in the Shop.	Section 5(a)(1)

6. Applicant has evaluated the complaint items and determined that some of the specified hazards are covered by CPL 2-15-01E, Region-Wide Local Emphasis Program (LEP) for Powered Industrial Trucks and Other Material or Personnel Handling Motorized Equipment in Construction, General Industry and Maritime. A copy of the local emphasis program is attached hereto as Exhibit C, CPL 2-15-01E. Hazards identified in the signed formal complaint include employees operating forklifts and skid steer loaders without adequate training, as well as the use of inadequately maintained forklifts and skid steer loaders. Some forklifts and loaders are operated with broken parts and leaking hydraulic fluid in the workplace. CPL 2-15-01E addresses hazards associated with the operation of material handling or personnel handling motorized equipment, including forklifts and skid steer loaders in general industry, construction and maritime inspections, and allows evaluation of compliance with the applicable vehicle-related standards in general industry, construction and maritime inspections. See Ex. C, CPL 2-15-01E, para. II, p. 1.

7. Additionally, hazards set out in the formal complaint include respiratory hazards, which are covered in CPL 02-11-01J, the Region-Wide Local Emphasis Program (LEP) –Work Places with Noise and Respiratory Hazards. A copy of this LEP is attached hereto as Exhibit D (CPL 02-11-01J). Specific hazards identified in the complaint include inadequate ventilation for fumes from welding, grinding and plasma cutting, chemical and paint hazards, lack of training on hazardous chemicals and hazard communication, inadequate storage of compressed gases, and electrical hazards with exposed wires on a breaker box within 4.5 feet of chemical storage tanks. Under

CPL 02-11-01J, establishments scheduled for unprogrammed inspections, such as a complaint inspection, and with NAICS Codes included in the Appendix A of the LEP, shall be assessed for respirator use and any respirator program for compliance with respirator standards. *See Ex. D, CPL 02-11-01J, para. XI.B, p. 4.* Ambassador Pipe and Supply, Inc. has an NAICS Code of 332996 for Other Fabricated Metal Product Manufacturing, and 332996 is an NAICS Code of establishments covered by CPL 02-11-01J, Ex. D, Appendix A at p. A-1.

8. On December 18, 2018, Compliance Officer Zacariah Dapron requested entry into

the workplace at the aforementioned location to make an inspection of the above listed items and was denied permission to do so by James Hindman, Owner.

9. It is requested that the warrant authorize a safety and health inspection and investigation of each of the conditions set forth above and alleged in the attached complaint, marked as Exhibit B and set forth in paragraph 5. It is also requested that the warrant authorize an inspection related to any complaint item, all aspects of 29 CFR 1910 Subpart N related to material or personnel handling motorized equipment, collect OSHA 300 data for the previous three years, and evaluate the employer's safety and health programs, as directed in Exhibit C, CPL 2-015-01E, para IX.C.1, p. 3. It is also requested that the warrant authorize that the OSHA Compliance Officer may conduct sound level meter readings and assess the respirator and respirator programs for compliance with the respirator standard, as directed in Exhibit D, CPL 02-11-01J, para XI.B., p. 4. An inspection is also requested of all hazards in plain view and of all relevant records, files and papers. The inspection and investigation will be conducted during regular working hours or at other reasonable times, within reasonable limits, and in a reasonable manner, including the questioning privately of any employee or agent, and the taking of photographs, videotape, environmental samples including the use of personal sampling equipment, and measurements when necessary. The compliance officer's credentials will be presented, and the inspection and investigation will be commenced as soon as practicable after the issuance of this warrant and will be completed with reasonable promptness.

10. Any information, including videotapes, photographs and environmental samples, obtained in connection with the inspection and which is designated to be a trade secret as defined in 18 U.S.C.A. § 1905, shall be considered confidential as provided in section 15 of the Act, 29 U.S.C.A. § 664.

I declare under penalty of perjury that the foregoing is true and correct.



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Karena Lorek  
Area Director and Compliance Officer,  
Occupational Safety and Health Administration  
United States Department of Labor

15th

Subscribed and sworn to before me in my presence on this \_\_\_\_\_ day of January,  
2019.

*Lajuana M. Counts*

Honorable Lajuana M. Counts  
United States Magistrate Judge  
Western District of Missouri

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